

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4740 OF 2007

Menon Pistons Ltd. ... Petitioner

V/s.

Shri Prakash Anandrao Chaugule ... Respondent

Mr.A.V. Bukhari with Abhay Nevagi and Yogesh
Paranjape for Petitioner

Mr.K.S. Bapat with Avainash Fatangale for Respondent

CORAM: SMT.NISHITA MHATRE, J.

DATED: AUGUST 22, 2007

P.C.:

. The petition challenges the award Part I delivered by the Labour Court, Kolhapur on 4.4.2007 in Reference (IDA) No.41 of 1994. The Labour Court has held that the findings of the enquiry officer are perverse and has therefore, given an opportunity to the petitioner employer to lead evidence to prove the charges against the workman.

2. It is a sad reflection on the proceedings before the Labour Court that a Reference of 1994 is still pending adjudication and that in 2007, the Labour Court has only decided the preliminary issue as to whether the findings of the enquiry officer are perverse.

3. The case of the petitioner is that after an

agreement was signed by it with the union representing the workers, the respondent worker on 2.5.2005 and 3.5.2005 instigated the other workers not to work on two machines as was agreed in the settlement. It was also alleged that because of this instigation the workers did not give proper production and that in order to get out of the settlement, the respondent worker was trying to form a new union.

4. Mr.Bukhari, appearing for the petitioner, places reliance on the judgements in *State Bank of India v/s. Tarun Kumar Banerjee & Ors.*, **2000 III CLR 839**, *Tata Infomedia Limited (Erstwhile Tata Press Ltd.) v/s. Tata Press Employees' Union & Anr.*, **2005 II CLR 463** and *Mahindra & Mahindra Ltd. v/s. N.B. Narawade*, **2005 I CLR 803** to submit that the Labour Court must consider the preponderance of probabilities while considering the perversity of the findings of the enquiry officer. He submits that it is only when there is no evidence on record or if no reasonable person could draw the inferences that the enquiry officer has, that the Labour Court could conclude that the report of the Enquiry Officer was perverse. He submits that in this case, the Labour court has transgressed its jurisdiction by concluding that the findings were perverse only because employer's witness, Shri Ankali had not divulged the name of the workman who had complained to him about the

instigation on the part of Respondent No.1.

5. On a perusal of the award of the Labour Court, I find that the Labour court has considered that the evidence on record does not indicate on a preponderance of probabilities that the respondent workman was guilty of the misconduct alleged against him. In paragraphs 17 and 18 the Labour Court has given justifiable reasons for inferring that the findings of the enquiry officer are perverse. The Labour Court has held that the non disclosure of the names of the persons who had complained about the instigation on the part of the Respondent workman under the guise of maintaining secrecy indicates on a preponderance of probabilities that the misconduct was not proved. Besides this reason the Labour Court has found that contrary to the allegations the workmen had worked in accordance with the settlement by operating two machines.

6. I do not see any reason to interfere with the award of the Labour Court. Petition rejected.

7. The Labour Court shall dispose of the Reference expeditiously and not later than 31.12.2007.